

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 1671 - HB 1663

January 23, 2022

SUMMARY OF BILL: Enacts the Hannah Eimers Memorial Tennessee Roadside Safety Hardware Act (Act). This Act requires, prior to the installment of a crash cushion or guardrail end terminal, that the Tennessee Department of Transportation (TDOT) receive all crash tests applicable to such cushion or guardrail, in accordance with the testing standards established by the Federal Highway Administration (FHWA).

Establishes requirements of such crash tests, including International Organization for Standardization (ISO) or applicable certification and independent analysis.

Requires that any crash cushion or guardrail that has been approved for use on a public road or highway, and to which subsequently undergoes a change, material makeup, or installation after the original crash tests have been conducted, must submit to additional crash testing as required by this legislation.

Requires the TDOT to, within 60 days of the effective date of this Act, provide notification, by certified mail, to each manufacturer of any guardrail or crash cushion that has been approved for use on public highways and roads as of the effective date of this Act.

Creates a civil penalty of at least \$25,000, and up to \$100,000, against any manufacturer who fails to notify the TDOT of any change to a previously approved guardrail or crash cushion. Authorizes the TDOT to, after a notice and hearing, to assess a civil penalty of \$10,000 from any manufacturer found in violation of this Act.

FISCAL IMPACT:

Increase State Expenditures –

Exceeds \$13,715,000/FY22-23 and Subsequent Years/Highway Fund

Assumptions:

- Currently, based on information from the TDOT, when modifications are required of any crash cushion or guardrail, and such modification are judged to be not significant, the TDOT Manual for Assessing Safety Hardware or “MASH” Committee can allow for such modifications without additional testing.
- Significant modifications are currently required to undergo crash testing.

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- It is assumed that a portion of any cost to retest any such product would be passed down to the state.
- Based on information from the TDOT, it is not uncommon for one product to be used throughout the state, some even being used in excess of 5,000 instances.
- It is unknown which type of crash cushions or guardrail, if any, may need modification and how many of each type of traffic barrier is used statewide.
- Based on information from TDOT, it incurs approximately \$9,600,000 per year for approximately 2,100 end treatment repairs. Approximately 60 percent, or \$5,760,000 ($\$9,600,000 \times 0.60$) is material costs. The material costs for each replacement required under the proposed legislation is estimated to be \$2,743 ($\$5,760,000 / 2,100$)
- According to TDOT, TDOT has averaged one change per year for the past three years from manufacturers currently in use. Assuming one instance per year whereas one product will require modification and it is used in at least 5,000 instances across the state, there would be a recurring increase in state expenditures exceeding \$13,715,000 ($5,000 \text{ traffic barriers} \times \$2,743$).
- It is unknown whether the state has any recourse for faulty products (i.e. product liability) with contracts with traffic barrier manufacturers; however, based on information from TDOT, the Department assumes the cost will be passed down to the state in one form or another.
- Any increase in citation fee revenue collected by the state, as a direct result of this legislation, is assumed to be not significant.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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